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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

<b>Application No.</b> 09/925,149	<b>Applicant(s)</b> ABRAHAM, MANOJ	
<b>Examiner</b> Joseph A. Fischetti	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 26 January 2006.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 17-24 and 27-31 is/are pending in the application.  
4a) Of the above claim(s) 27-31 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 17-24 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
- Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Election/Restrictions**

Newly submitted claims 27-31 are directed to an invention <sup>specie</sup> that is independent or distinct from the invention originally claimed for the following reasons: the infeasibility embodiment was cover<sup>d</sup> in claim 20 of the claims as originally filed and did not include the feature of claims 27-31. If applicant were to file an RCE to re-present these while canceling claims 18,19,21-24, then an examination on them would be made.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

**Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2, applicant recites "media" but it is the office policy following the latest 101 guidelines that this term needs to be modified to avoid the possible interpretation of the media being, e.g. newspaper. This can be corrected by an amendment changing the language to "computer readable media", which amendment will be entered after final as

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a matter of right given that the policy implementation was made after applicant's response was filed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al. in view of Milne et al. and Stilp.

Kennedy et al disclose access data describing a plurality of priority levels, each priority level comprising at least one item request (read as the criteria col. 5 lines 36-66 and cols. 7-8 items 1-4). Kennedy et al. disclose a downstream planning logic which for each priority level and for each item request of a priority level as follows: Kennedy et al. in col. 7 lines 6-20, discloses planning an order for an item request of a current priority level according to a plurality of recorded availability of network components (read as those others than those one or two in group 2, an unavailable network component being unable to satisfy an item request (read as the unavailable material network component). Kennedy disclose determining that those in Group 1 will be served and which in group 2 should be made late based upon "due date"; this is read as providing an order plan comprising the orders planned for the item requests at each priority level.

Kennedy disclose:

Customer requests can consist of an end item, quantity, due date (or period), and potentially many attributes such as priority which a flow policy might want to

reference in determining how to plan consumers given finite resources. For example, a flow policy might be able to build only enough producers to deliver to nine of ten consumers on time. Thus, it must decide which consumer falls late. A low priority or later due date would be good criteria for making a consumer late.

This disclosure makes it clear that the system contemplates a network component which is infeasible to completing the desired goal, e.g. unable to satisfy a request for a given priority level (e.g. HIGH / LOW see col. 4 lines 36,37) in that only 9/10 customer will have the goods. Applicant's statement that the Kennedy et al. system is only an upstream type one is not quite accurate in that Kennedy et al. clearly discloses it can be implemented either upstream or down stream (see col. 3 lines 37-41):

Further, although the above discussion is generally from the perspective of propagating planning decisions "upstream", supply allocation policies can be enforced "downstream" as well.

In addition, the system can be used in an actual mode as well (see col. 4 line 38), further lending to current capabilities of the system.

However, Kennedy appears to be silent regarding access data describing a supply chain network comprising a plurality of network components, each network component operable to supply one or more items to satisfy an item request, and access data about infeasibility periods of time associated with one or more network components. However, Milne et al disclose plural network components (all manufacturer entities) which are operable to supply one or more items to satisfy an item request, namely parts A,B,C ... and establishes an asset list for each part answering to access data about the infeasibility periods of time associated with each part. Milne et al. also disclose the availability of products for a "journey" and thus is read as feasibility or contra-positively infeasibility for the full job respectively of the "journey" e.g. respective period of time and

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discloses a reverse low level code (col. 13 lines 65 et seq.) answering to the limitation of access data about infeasibility periods of time associated with one or more network components, the reverse low level code being based on feasibility e.g., 0.60 usage vs 1.0 usage. It would be obvious to modify Kennedy et al. to include <sup>Milne's</sup> plural network components, each network component operable to supply one or more items to satisfy an item request, and access data about infeasibility periods of time associated with one or more network components, the motivation being the better understanding of manufacture problems downstream before they manifest.

The steps of validating and recording the validated the network components for the current priority level is disclosed by Stilp wherein it is disclosed in col. 35 lines 57-59 that the validation step is taken before recording in a database in order to insure that the data populated in the database is valid. It would be obvious to modify the above combination to include the validating step for the unplannable network components of Kennedy (defined above), the motivation being the ability to track components not otherwise provided for in the scheme as valid once a set of rules is applied.

Re claims 18 and 21,23, 24: see Kennedy col. 3, line 5 for buffer usage, notwithstanding the use of a buffer is deemed as an old and notorious expedient of the art.

Re claims 19, 20, and 22: Kennedy disclose determining that those in Group 1 will be served and which in group 2 should be made late based upon "due date" is read as an operation and the failure to provide material is read as the an infeasible period and the this determination is read as one of capacity.

REPLY:

Applicant's arguments filed 1/26/06 have been fully considered but they are not persuasive. Applicant argues that the prior art does not disclose infeasibility periods of time associated with one or more respective network components. However, Milne et al. disclose col. 7 disclose a fractional allocation of part A to downstream application to build another part B which the examiner reads as the feasibility of using 100% of part A without any downstream dependence. The period is read as the "journey" col.7 line 46. Both Milne et al and Kennedy disclose time bucket techniques of scheduling, and thus the motivation for modification would be better upstream planning.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication should be directed to PRIMARY EXAMINER Joseph A. Fischetti at telephone number 571 272-2700.

JOSEPH A. FISCHETTI  
PRIMARY EXAMINER

